

April 5, 2002

Before the Federal Communications Commission  
Washington, D.C. 20554

In the Matter of:	)	
	)	
Schools and Libraries Universal	)	CC Docket No. 02-6
Service Support Mechanism	)	

**Comments Submitted by the  
West Virginia Department of Education (WVDE)**  
In Response to the  
Released January 25, 2002  
Notice of Proposed Rulemaking & Order

**I. Introduction**

1. The West Virginia Department of Education (WVDE) respectfully submits its comments in the above-referenced Notice of Proposed Rulemaking (“NPRM”) proceeding. The WVDE serves more than 800 public schools and over 280,000 public K-12 students.
2. The WVDE would like to commend the Federal Communications Commission (“FCC” or “Commission”) for its ongoing commitment to expand universal service of telecommunications services to schools and libraries, a program often referred to as the E-rate program. West Virginia schools have benefitted from this program, since its inception, through millions of dollars in E-rate discounts on local telephone service, long distance charges, 56KB and T-1 line charges, paging and cellular services, Internet access fees, ongoing maintenance, and internal connection costs both from local and state funding sources.
3. The WVDE applied for E-rate discounts on behalf of all West Virginia schools for the first two program years (January 1, 1998 through June 30, 2000). The WVDE filed the forms (both the 470 and 471) for the first two program years, with the understanding that when the program was more stable, that the district and/or school would then assume this responsibility. Regional

meetings were held within the state during the fall of 1999 to assist WV districts with this transition.

4. For program year one there was a total of 253 applications filed - 55 district applications, three (3) statewide applications, and 195 individual school applications. Discounts were requested on basic telephone service, long distance, Internet access, maintenance, and internal connections. All 840 schools requested one or more of these services for nearly \$12 million in pre-discount costs. A similar number of applications were filed for program year two. The district and/or school submitted the other forms necessary for discount or reimbursement (486 and 472) once services were received and discounts were approved.

5. The WVDE has continued to file the FCC Form 470, request for bids, on a variety of services, each year. The WVDE has also filed the FCC Form 471, request for discounts, as the billed entity for statewide initiatives: Basic Skills/Computer Education (K-6), SUCCESS (7-12), Internet access fees, and router maintenance for school routers.

6. Guiding principals for these comments:

The application process must be simplified.

The technology chosen should be the decision of the local entity - based on neutrality, curriculum needs, and economics.

The best interest of the applicant should always be considered in Commission and Schools and Libraries Division ("SLD" or "Administrator") decisions.

Funds must be distributed fairly and equitably across the nation.

## II. Program improvements (Paragraph 81)

7. The E-rate process has improved greatly over the first five years of the program. Such improvements have included the alignment of the school funding year with the E-rate funding year, the "window" concept, the "Evergreen" Form 470, state replacement contract application

processes, use of the postmark for application deadlines, online applications, electronic signatures, and the September 30 deadline for non-recurring installations. There are many more improvements that could assist applicants in the process and lessen the administrative burden on the SLD.

### Form 470 Improvements

8. The Form 470 is probably the easiest E-rate form to complete. However, it is also the most confusing form for applicants to implement in the application process. Schools, districts and states have local procurement and purchasing procedures to follow. The added “hoop” of the 470 is very foreign and confusing to the applicant. E-rate is only one of the thousands of tasks that these educators complete in a month’s work. Because of this, most of the applicants filling out the Form 471 only do E-rate when there is a deadline (the “window”) and they sometimes wait too long in beginning the process to realize that the 470 should have been completed 28 days in advance of the 471, even though local procurement procedures had been followed. The 470 has been a stumbling block for some applicants to apply for discounts on at least some services. The original intent of the 470, while admirable, has not been fully realized in the E-rate program. In reality the Form 470 has not created competition in West Virginia. Please either remove the requirement of filing the Form 470 or change the 28-day waiting period, if local procurement procedures are followed. We receive numerous calls from PIA each year with questions on the 470 application number used on the Form 471. Many of West Virginia’s services are on state master contracts that are bid and awarded under a very stringent set of state purchasing rules. These state master contracts include such services as voice, long distance, router maintenance, eligible internal connection products and services, and advanced data services. Maybe a check off on the 471 could be used as an alternative: either the applicant has 1) followed local

procurement procedures; 2) followed state purchasing procurement procedures (as in a state master contract); 3) received at least three competitive bids on the service; or 4) has filed a Form 470.

### Form 471 Improvements

9. Allow the Form 471 to be updated from year to year instead of starting every year from scratch. For instance, the WVDE applies for Internet access for all 800 public K-12 schools every year. There are only minor changes in the list of schools from year to year - a few new schools opening and a few schools that have closed. The National School Lunch Program information changes, but it would be easier to modify this information than type the entire list of schools and information again. (Also see Paragraph 15 of this document on electronic submission of data.) There is only one Block 5 for the application and this could also be easily modified from the previous year's application since we use a multi-year contract. Maybe there could be an "Evergreen 471" process or an "EZ471" form. Many smaller school and district applications are for the same services from year to year. For instance, they use tariff or multi-year contracts for telecommunications every year, long distance is bid and the same vendor bids each year with the lowest cost, the advanced data lines do not change, and/or they use a multi-year state master contract. The information changing from year to year is minimal.

10. Delete the Block 3 questions on the Form 471 or do a major reduction in the information requested. This block is very confusing to applicants and a duplication of data from one application to another within a state. In West Virginia we do at least two applications, at the state level, that have almost every school listed. We report basically the same information on each of these two applications in Block 3, specifically the number of students and the number of buildings. We do two other applications that list two different subsets of our schools. In addition,

each district does an application with their individual numbers and in some cases, schools have applications that again duplicate some of these numbers. We see no reason for this information to be collected in this fashion.

### Appeal Improvements

11. Allow the SLD to correct obvious mistakes made by them or the applicant. We have had a large percentage of our appeals in the category of a simple typing mistake in information on the Form 471 or by the SLD in data entry. A brief call to the applicant could save everyone hours of work. This is evident in the WV district application where the applicant filled out the entire 471 correctly for Year 4, but forgot to change the Funding Year in Item 2 of Block 1 from the previous year's application - one line put the entire application into appeal. This application has still not been funded, but could have been with one contact by the SLD before denial.

12. We agree with those who have recommended that the time limit for filing an appeal with the Commission or the SLD be extended to 60 days (Paragraphs 51-52). The applicants are not always at their workplace when the Funding Commitment Decision Letter or other decisions of the SLD/FCC are mailed and received. Sometimes they are involved in another important part of their jobs and simply do not have the time to immediately put the decision under the magnifying glass. Or, they are not sure why a decision was not in their favor and need additional time to investigate the need to appeal. Once a decision to appeal has been made it takes time to gather the data needed to support their case. We also applaud the consistency with other application deadlines of using the postmark as the date the appeal is filed.

13. Approve appeals in a more timely fashion. West Virginia is still waiting on the SLD decision on a Year 2 appeal. This appeal information has been sent to the SLD repeatedly over the past two years with no forthcoming decision. This appeal was because of typing errors by the

SLD; how long does it take to correct typing mistakes? The long wait for appeal decisions plays havoc with the necessary planning process of schools and districts caught in the appeal process. We have had hundreds of thousands of dollars and a number of projects held hostage by this very, very slow process.

#### Application Review Process Improvement

14. There needs to be consistency in reviewing the applications. For example, one district in West Virginia submitted four similar applications for the same service. The district is large and the applicant wanted to try to simplify the process for himself. The applications were identical except for the schools listed, the associated discount rates, and the requested dollar amounts. It was for the same service, on the same contract, with the same Block 5 entries on Service Start Date, etc. Two of the applications were approved with minor modifications determined through PIA contact with the applicant. Two of the applications were denied, appealed and funded under a successful appeal. Although all four applications were eventually funded, the appeal process was extremely time consuming and unnecessary for both the SLD and the applicant.

#### Improvement for Submission of Data

15. Since West Virginia National School Lunch Program data is available in electronic form (and is sent to PIA this way), provisions should be made for large applicants to submit data in electronic form, rather than in paper form, or having to rekey the information in the Form 471 on the SLD web site. This would save large applicants and the SLD hours of work.

### III. Unused Funds (Paragraphs 69-70)

16. The planning and application process for E-rate is months in advance of the funding commitments. In some cases it could be close to two years after an application has been submitted before funding is realized under the E-rate program. It is very hard to plan and even

harder to nail down exactly how much money to budget for projects under this scenario; budgets change, equipment costs decrease, and technology needs change. In Year One of the program, we requested upgrades on our data lines to individual schools. Under the application process, we had to submit both the current configuration and also the upgrade needs for a full year since the start of funding was completely unknown. Not only was this a duplication of dollar amounts, but the funding did not come until months after the start date for the upgrades. Even though most of the non-recurring costs (in installation) were eventually used, the recurring costs were delayed and some of those committed dollars were never spent. When circuits were upgraded, the existing configuration was cancelled and the new configuration was flagged as a service that had begun. A second reason that funds go unused is a change in the technology direction or a change in the administration. Again, since the application process is months in front of the funding, an administrator may have a vision that his predecessor does not. This happened in at least one of our districts in relation to video and distance learning. There can also be unexpected delays by a vendor who is providing a service.

17. Applicants who successfully apply for funds have nothing to lose; it is therefore to an applicant's advantage to apply for discounts on services that they have planned but not implemented. On the other hand, if you do not apply for funds and then do a project that is E-rate eligible, an applicant has lost a great opportunity.

#### IV. Distribution of Funds

18. The WVDE would be very interested in joining a discussion on a fair and equitable model of E-rate fund distribution to applicants. There have been a number of suggestions by state coordinators and others since the beginning of E-rate. As the program has matured there is more evidence to support alternative distribution models that "tweak" what we have now and get at

equity. This could go a long way in fighting fraud, waste or abuse of the program by vendors and applicants.

## V. Voice Mail (Paragraph 22)

19. We support making voice mail eligible for discounts. We believe that this would help small, rural schools and districts in applying for E-rate and would eliminate part of the SLD review process. At the same time, it should not significantly increase the funding disbursements.

## VI. 30 Percent Policy (Paragraphs 26-27)

20. We concur with the Commission that “[t]he 30 percent policy allows the Administrator to efficiently process requests for funding that contain only a small amount of ineligible services without expending significant fund resources working with applicants ...”.

## VII. Conclusion

21. The West Virginia Department of Education would again like to thank the Commission for their support of the E-rate program. The WVDE appreciates the opportunity to comment on these issues and looks forward to assisting the Commission as the process continues.

Respectfully submitted,

Phyllis Justice, Assistant Director  
Office of Technology & Information Systems  
West Virginia Department of Education  
1900 Kanawha Blvd., East  
Charleston, WV 25305  
Voice: 304.558.0304  
Fax: 304.558.2584  
[pjustice@access.k12.wv.us](mailto:pjustice@access.k12.wv.us)